

Before the  
**Federal Communications Commission**  
Washington, DC

In the Matter of:	)	
	)	
<b>Closed Captioning of Video</b>	)	
<b>Programming</b>	)	CG Docket No. 05-231
	)	
<b>Telecommunications for the Deaf,</b>	)	
<b>Inc. Petition for Rulemaking</b>	)	

**Reply to National Association of Broadcasters ENT Progress Report by**  
**Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)**  
**National Association of the Deaf (NAD)**  
**Hearing Loss Association of America (HLAA)**  
**Technology Access Program at Gallaudet University (TAP)**

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## Summary

The results of the above-referenced *ENT Report* and associated *Consumer Survey* do not suggest a departure from what deaf and hard of hearing consumers have long proposed: that the Commission should phase out the use of ENT in markets outside the top 25 in favor of high quality real-time captioning, requiring broadcasters and other ENT users to submit ongoing progress reports over the transition period. Overwhelming and substantial problems remain with the quality of ENT captions. These problems violate the Commission's caption quality standards, and the continued use of ENT denies the the civil right of Americans who are deaf or hard of hearing to access news programming on full and equal terms.

Moreover, there is no evidence that 'enhanced' ENT procedures implemented over the past year have yielded meaningful improvements. In particular, weather and sports programming, breaking news and live coverage, and anchor banter remain inaccessible for many. These problems have spilled over to the provision of emergency programming, where substantial accessibility problems unduly endanger the lives of Americans who are deaf or hard of hearing.

The issues NAB raises with a transition to real-time captioning pale in comparison to the significant problems that remain with ENT. While NAB notes quality problems with real-time captioning, the appropriate response is to address those problems head-on by requiring functional standards for high-quality real-time captions, not to continue allowing the use of ENT captions with substantial quality problems of their own. The *Report's* lack of specific information on the burden of real-time to stations precludes continuing a categorical allowance of ENT in markets outside the top 25, and the scarcity and expense issues NAB raises likely would be exacerbated, not helped, by the the continued allowance of ENT.

Nevertheless, we agree with NAB that educational efforts and continuing dialogue may prove beneficial in the transition from ENT to real-time captions. Finally, data gathered in the *Report* suggests issues with consumer complaints that the Commission should address.

## Table of Contents

<b>Summary .....</b>	<b>i</b>
<b>Table of Contents .....</b>	<b>ii</b>
<b>Discussion .....</b>	<b>1</b>
I. ENT still fails to fulfill the civil right of Americans who are deaf or hard of hearing to access news programming on full and equal terms.....	2
A. Viewers who are deaf or hard of hearing continue to experience widespread quality problems with ENT-captioned news programming. ....	3
B. Problems with ENT objectively violate the Commission’s caption quality standards for accuracy, synchronicity, completeness, and placement. ....	4
II. There is no evidence that “enhanced” ENT procedures have resulted in meaningful improvements to critical areas of programming.....	6
A. Much weather and sports programming remains inaccessible under “enhanced” ENT procedures.....	6
B. Much breaking news, live coverage, and anchor banter remain inaccessible under “enhanced” ENT procedures. ....	7
C. Reliance on ENT has resulted in a lax approach to making emergency information accessible and unduly endangered the lives of people who are deaf or hard of hearing.....	8
III. The Commission should proceed with a transition from ENT to real-time captions for stations outside the top 25 markets. ....	9
A. Problems with poor-quality live captioning necessitate imposing minimum functional standards for live captioning quality, not continuing to allow ENT. ....	9
B. The lack of information about stations relying on ENT and the voluntary transition of stations in non-top-25 markets from ENT to live captioning conclusively demonstrate that the ENT exemption is no longer viable. ....	10
C. Any scarcity or expense of real-time captioners is driven in part by the continued allowance of ENT. ....	12
D. The Commission should proceed with its plans to phase out ENT.....	13
IV. Educational efforts and continuing dialogue may prove beneficial in the transition from ENT to real-time captions. ....	13
V. Consumer complaints to the Commission understate the scope of captioning problems and are hindered by various roadblocks. ....	14

## Discussion

Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), the National Association of the Deaf (NAD), and the Hearing Loss Association of America (HLAA), collectively, “Consumer Groups,” and the Technology Access Program at Gallaudet University (TAP), respectfully submit this reply to the October 28, 2015 Electronic Newsroom Technique (ENT) Captioning Progress Report of the National Association of Broadcasters (NAB) in the above referenced docket (“*ENT Report*”).<sup>1</sup>

At the outset, we appreciate the spirit of collaboration in which NAB approached the development of the surveys and other information that form the basis for the *ENT Report*.<sup>2</sup> We concur with NAB that the *Report* should not mark the end of dialogue between broadcasters and consumers, and that ongoing cooperation between NAB, the Consumer Groups, and TAP should remain an important part of the Commission’s approach to closed captioning policy for local news programming.<sup>3</sup>

However, we respectfully disagree with NAB’s conclusion that the Commission should permit the continued use of ENT. We believe that ENT continues to fall short of the high standard of equal access required of closed captioning methods. There is no evidence that the “enhanced” procedures adopted in 2014 have meaningfully addressed ENT’s shortcomings. Because the countervailing concerns raised by NAB about quality, cost, and scarcity are unavailing, we urge the Commission to proceed with phasing out ENT in markets outside the top 25 in favor of a real-time captioning requirement.

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<sup>1</sup> <http://apps.fcc.gov/ecfs/comment/view?id=60001305446>.

<sup>2</sup> See *ENT Report* at 2-4.

<sup>3</sup> See *id.* at 5.

**I. ENT still fails to fulfill the civil right of Americans who are deaf or hard of hearing to access news programming on full and equal terms.**

In affording broadcasters temporary permission to continue using ENT through mid-2015, the Commission noted in the *2014 Caption Quality Order* that it “remain[ed] concerned about the inability of ENT, as it is currently used in markets outside of the largest 25 DMAs, to provide full and equal access to news programming for all Americans.”<sup>4</sup> The Commission premised its continued allowance of ENT not just on compliance with several new “enhanced ENT” procedures proposed by NAB to improve ENT, but on “the extent to which compliance with [enhanced ENT] procedures [fulfills] the [Telecommunications Act of 1996’s] requirement for full access to news programming.”<sup>5</sup>

While we have no doubt that NAB proposed those procedures—and that many broadcasters have embraced them—with the best of intentions, the Consumer Groups’ *Survey Report* filed with the *ENT Report* strongly suggests that those intentions have not resulted in anything resembling the requisite full and equal access to news programming for the more than 48 million Americans who are deaf or hard of hearing.<sup>6</sup> The *Survey Report* makes clear that many viewers who rely on ENT to access news continue to experience unacceptable quality problems that both significantly hinder viewers’ ability to understand news programming and plainly violate the Commission’s quality standards.

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<sup>4</sup> *Closed Captioning of Video Programming*, Report and Order, 29 FCC Rcd. 2221, 2269, ¶ 77 (Feb. 24, 2014) (“*2014 Caption Quality Order*”).

<sup>5</sup> *Id.* at 2271-2272, ¶¶ 81-82.

<sup>6</sup> See generally *ENT Report*, Attachment B, *Survey Report of TDI, NAD, HLAA, and TAP* (Oct. 28, 2015) (“*Survey Report*”) (also attached to this Reply), <http://apps.fcc.gov/ecfs/document/view?id=60001331313>. The data in the survey were drawn from a convenience sample.

**A. Viewers who are deaf or hard of hearing continue to experience widespread quality problems with ENT-captioned news programming.**

The *Survey Report* demonstrates the undeniable and continued existence of problems with ENT: the vast majority of survey takers who rely on captioning in ENT-eligible marketplaces—82.14%—reported that they experienced captioning problems on local broadcast news programs.<sup>7</sup> Asked to subjectively rate the accuracy of the captions local broadcast news programs on a scale of 1-5, with 1 being “very inaccurate” and 5 being “very accurate,” more than two-thirds of survey-takers—67.57%—rated captions 3 or worse, with nearly one-third—30.68%—rating their captions only 1 or 2.

A significant majority—68.93%—also indicated that the quality of the captions for their local news programming was worse than the quality of captions for other types of programs. In several pages of comments, viewers variously labeled their local news captions as “atrocious,” “very poor,” “hit and miss,” “off base” and “misleading,” “totally out of [whack],” “[v]ery erratic and impossible to follow,” “broken,” “full of inaccuracies,” and “spotty,” for example.<sup>8</sup> As NAB acknowledges, these responses “indicat[e] that viewers in ENT-permissible markets have valid and significant concerns about the overall quality of captioning . . . .”<sup>9</sup>

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<sup>7</sup> *Id.* at 2.

<sup>8</sup> *Id.* at 7-13.

<sup>9</sup> See *ENT Report* at 19. NAB suggests that these concerns may be attributable to entertainment programming. *ENT Report* at 19, n.40. But all survey takers whose results are encapsulated in the *Survey Report* affirmed that they “watch local broadcast television news programming (i.e., ABC, CBS, FOX, NBC, CW, PBS, Univision, and Telemundo) from local television stations with closed captions turned on.” *Survey Report* at 1.

**B. Problems with ENT objectively violate the Commission’s caption quality standards for accuracy, synchronicity, completeness, and placement.**

While NAB dismisses consumers’ concerns as, at least in part, matters of “personal preference,” the *Survey Report* indicates that many consumers encounter problems whose mere existence violates the Commission’s caption quality standards. For example:

- More than two-thirds—71.96%—of survey takers reported encountering **missing captions**;
- Nearly two-thirds—60.97%— reported encountering **misspelled words**;
- A similar number—64.47%—reported encountering **phrases that are obviously incomplete or did not include everything that is being said**;
- A similar number—59.03%—reported encountering **incomplete sentences**; and
- More than half—52.04%—reported encountering **phrases that are obviously missing words**.<sup>10</sup>

Each of these problems violates Rule 79.1(j)(2)(i), which requires closed captioning to be accurate in a variety of dimensions.<sup>11</sup>

More than half of survey takers—53.40%—reported **missing captions right before commercial breaks**.<sup>12</sup> This problem violates Rule 79.1(j)(2)(iii), which requires captions to be complete and “run from the beginning to the end of the program . . . .”<sup>13</sup>

Almost all survey takers—90.11%—encountered problems with captions being **out of sync**—whether too fast (3.50%), too slow (37.48%), or both (49.13%).<sup>14</sup> More troublingly, 77.15% of those who encountered synchronicity problems reported that the problems

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<sup>10</sup> See *Survey Report* at 2-3

<sup>11</sup> See 47 C.F.R. § 79.1(j)(2)(i).

<sup>12</sup> See *Survey Report* at 3.

<sup>13</sup> See 47 C.F.R. § 79.1(j)(2)(iii).

<sup>14</sup> See *Survey Report* at 2.

**interfered with their comprehension of the news or ability to identify speakers.**<sup>15</sup>

These problems violate at least the spirit, if not the letter, of Rule 79.2(j)(2)(ii), which requires captions to be synchronous to “the greatest extent possible.”<sup>16</sup>

Finally, more than three-fourths of survey takers—78.06%—noted that **captions covered up text or graphics.**<sup>17</sup> Survey takers noted, for example, that captions covered emergency information, breaking news, weather alerts, sports scores, speaker and location identifications, speaker faces, school closings, and various other information.<sup>18</sup> These problems violate Rule 79.2(j)(2)(iv), which requires captions to “not block other important visual content on the screen, including, but not limited to, character faces, featured text (e.g., weather or other news updates, graphics and credits), and other information that is essential to understanding a program's content when the closed captioning feature is activated.”<sup>19</sup>

In short, ENT remains, in many cases, ineffective and stricken with problems to the point that it fails to provide the level of quality demanded by each of the Commission’s four quality standards—accuracy, synchronicity, completeness, and placement.<sup>20</sup> These shortcomings make continued reliance on ENT in its continued state an untenable approach to ensuring the full and equal access to video programming for people who are deaf or hard of hearing required by the Telecommunications Act of 1996 and the Twenty-First Century Communications and Video Accessibility Act.

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<sup>15</sup> See *id.* at 4.

<sup>16</sup> See 47 C.F.R. § 79.1(j)(2)(ii).

<sup>17</sup> See *Survey Report* at 5.

<sup>18</sup> See *id.* at 19-24

<sup>19</sup> See 47 C.F.R. § 79.1(j)(2)(iv).

<sup>20</sup> Survey takers identified a multitude of additional problems spelled out in the *Survey Report*. See *Survey Report* at 14-17.



## II. There is no evidence that “enhanced” ENT procedures have resulted in meaningful improvements to critical areas of programming.

Not only has ENT failed to rise to the basic quality standards for all captions adopted in the 2014 *Caption Quality Order*, it is not clear that it has lived up to the promise of even the “enhanced” procedures required as a prerequisite to its continued allowance in the *Order*.<sup>21</sup> Indeed, the vast majority of consumer survey takers —80.78%— noted no apparent improvement in caption quality. They either **did not notice any changes in caption accuracy**—74.76%—or noted that **captions had even gotten worse**—6.02%—since “enhanced” procedures have been required. In contrast, only 11.07% of all survey takers thought that captions had gotten *better*.<sup>22</sup> Moreover, broadcasters’ claims of high rates of compliance with the procedures are not reflected in survey takers’ experiences with programming whose captioning the procedures were supposed to improve, including weather and sports, breaking news and live programming, and emergency programming.

### A. Much weather and sports programming remains inaccessible under “enhanced” ENT procedures.

The ENT best practices adopted in the 2014 *Caption Quality Order* include a variety of requirements for making sports and weather programming accessible, including that in-studio produced sports and weather programming be scripted and that weather interstitials with multiple segments be accompanied with scripted captions “explaining the visual information on the screen and conveying forecast information.”<sup>23</sup> 95.7% of broadcasters that took the *Broadcaster Survey* administered by NAB claimed to have “[s]cripted substantially all in-studio programming, including weather and sports.”<sup>24</sup>

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<sup>21</sup> See 29 FCC Rcd. at 2271-72, ¶ 81.

<sup>22</sup> See *Survey Report* at 3, 18.

<sup>23</sup> 2014 *Caption Quality Order*, 29 FCC Rcd. at 2271-72, ¶ 81; 47 C.F.R. § 79.1(e)(11)(i)(A)-(B).

<sup>24</sup> *ENT Survey*, Attachment A: NAB Survey, at 5 (“*Broadcaster Survey*”), <http://apps.fcc.gov/ecfs/document/view?id=60001331312>.

However, the claims of broadcasters do not match the experience of many viewers who are deaf or hard of hearing. More than half—52.88%—of survey takers who watch weather segments during their local broadcast news reported that the segments were not properly captioned, while more than one-fifth—20.65%—of those who watch sports segments were not properly captioned.<sup>25</sup> Simply put, the Commission’s hope that “[‘enhanced’ ENT] procedures will ensure that . . . weather [and] sports [programming] will be made more accessible to viewers who are deaf and hard of hearing” is not supported by evidence in the *ENT Report* or *Consumer Survey*.<sup>26</sup>

**B. Much breaking news, live coverage, and anchor banter remain inaccessible under “enhanced” ENT procedures.**

Similarly, the ENT best practices adopted in the *2014 Caption Quality Order* include a variety of requirements for breaking news and live coverage, including that live interviews, live on-the scene and/or breaking news segments which not scripted be supplemented with crawls, textual information, or other means.<sup>27</sup> 94.7% of broadcasters that took the *Broadcaster Survey* claimed to have “[s]upplement[ed] non-scripted live programming or breaking news through the use of crawls, textual information, or other means.”<sup>28</sup>

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<sup>25</sup> See *Survey Report* at 4. NAB suggests that some of these survey responses may result from viewers responding to captions summarizing weather information in compliance with 47 C.F.R. § 79.1(e)(i)(B) rather than accurately pre-scripting weather reports pursuant to 47 C.F.R. § 79.1(e)(i)(A). *ENT Report* at 21, n.47. However, widespread adherence to this practice would contradict near-universal broadcaster claims of pre-scripting weather reports. See *Broadcaster Survey* at 5 (claiming 95.7% compliance in “scripting substantially all in-studio programming, including weather . . .”). Moreover, one of the clips we viewed during a meeting with NAB included a weather shot with a captioned summary that appeared to depart so substantially from the shot’s audiovisual content that the relationship between the two was effectively indecipherable.

<sup>26</sup> See *2014 Caption Quality Order*, 29 FCC Rcd. at 2270, ¶ 78.

<sup>27</sup> *Id.* at 2271-72, ¶ 81; 47 C.F.R. § 79.1(e)(11)(i)(D).

<sup>28</sup> *Broadcaster Survey* at 5.

Again, the claims of broadcasters do not match the experience of many viewers who are deaf or hard of hearing. The vast majority—85.44%—of survey takers reported that captions stopped during news reports or live coverage of events.<sup>29</sup> Again, there is no evidence to suggest that the Commission’s hope that “[‘enhanced’ ENT] procedures will ensure that . . . breaking news and on- the-scene programming will be made more accessible to viewers who are deaf and hard of hearing” has come to fruition.<sup>30</sup>

**C. Reliance on ENT has resulted in a lax approach to making emergency information accessible and unduly endangered the lives of people who are deaf or hard of hearing.**

In the 2014 *Caption Quality Order*, the Commission reminded broadcasters that the “enhanced” ENT procedures “do not relieve stations of their obligations to comply with requirements regarding the accessibility of programming providing emergency information under 47 C.F.R. § 79.2.”<sup>31</sup> NAB claims that “stations continue to supplement [‘enhanced’] ENT with real-time captioning when disseminating information about emergency situations” as required by Rule 79.2.<sup>32</sup>

However, a shockingly high proportion—49.32%—of survey takers who rely on ENT captions reported encountering caption problems with local emergency programming.<sup>33</sup> For example, one survey taker reported “no captioning during emergency” and having to “keep flipping channels until I see captioning, to know what is going on.”<sup>34</sup> Another reported having to wait 45 minutes to access information during [a] riot because of captioning problems.<sup>35</sup> Others reported problems accessing information during mass

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<sup>29</sup> See *Survey Report* at 4.

<sup>30</sup> See 2014 *Caption Quality Order*, 29 FCC Rcd. at 2270, ¶ 78.

<sup>31</sup> *Id.* at 2272, ¶ 1.

<sup>32</sup> See *ENT Report* at 17 & n.38 (citing 47 C.F.R. § 79.2(b)(1)).

<sup>33</sup> *Survey Report* at 5.

<sup>34</sup> *Id.* at 25.

<sup>35</sup> *Id.*

shootings, floods, tornadoes, wildfires, hurricanes, and other emergencies.<sup>36</sup> The litany of problems detailed in the *Consumer Survey* suggests that continued reliance on ENT will not only deny viewers who are deaf or hard of hearing equal access to news programming, but place them in danger during serious emergencies.

**III. The Commission should proceed with a transition from ENT to real-time captions for stations outside the top 25 markets.**

Consumer Groups and others have urged the Commission to extend the prohibition on ENT usage to all markets for more than a decade because of its failure to provide full and equal access to video programming.<sup>37</sup> The information established in the *ENT Report* and *Consumer Survey Report* provide no evidence that the usage of ENT, even with “enhanced” procedures, provides viewers who are deaf or hard of hearing full and equal access. Because the countervailing quality, burden, cost and scarcity issues raised by NAB do not form a sustainable basis upon which to continue allowing ENT outside the top 25 markets, we again urge the Commission to proceed with phasing out ENT over a reasonable period of time in favor of real-time captions.

**A. Problems with poor-quality live captioning necessitate imposing minimum functional standards for live captioning quality, not continuing to allow ENT.**

NAB claims that “ENT produces more accurate and complete captions in local newscasts than does live captioning.”<sup>38</sup> As support for the proposition, NAB notes that 23.3% of broadcaster survey takers cited superior quality as a primary reason for using ENT.<sup>39</sup>

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<sup>36</sup> *Id.* at 25-30.

<sup>37</sup> *See generally* 2014 *Caption Quality Order*, 29 FCC Rcd. at 2267, 2268, ¶¶ 73, 75 (citations omitted).

<sup>38</sup> *ENT Report* at 18.

<sup>39</sup> *Id.*

NAB's claims, however, are belied by the fact that the vast majority of broadcaster survey takers—76.7%—did *not* cite superior quality as a primary reason for using ENT.<sup>40</sup> Nor would they have reason to: while neither the broadcaster nor consumer surveys were crafted to measure caption quality, *high-quality* real-time captions provided by qualified captioners are superior even to 'enhanced' ENT because they are capable of ensuring that unscripted content is captioned on the same terms as scripted content. No amount of careful planning in the generation of ENT captions can overcome this basic reality. Nor, as NAB concedes, are automated technologies well-situated to fill the gaps in scripting to the same extent that qualified captioners are.<sup>41</sup>

Of course, we agree with NAB in one limited sense: there undoubtedly are problems with some live captioning. However, the solution to those problems is *not* to replace those live captions with ENT captions of demonstrably worse quality.<sup>42</sup> The more appropriate solution to those problems is to implement minimum functional standards for live captioning, a task to which we urge the Commission to turn its attention. We also urge the Commission and NAB to turn their attention to addressing the numerous problems faced by live captioners to attain access to adequate preparation materials and quality audio signals, which some captioners believe are at the root of the same problems NAB cites.<sup>43</sup>

**B. The lack of information about stations relying on ENT and the voluntary transition of stations in non-top-25 markets from ENT to live captioning conclusively demonstrate that the ENT exemption is no longer viable.**

NAB nevertheless argues that “the risk to stations’ continued ability to serve the public with local news programming remains high and real” if stations are required to switch from

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<sup>40</sup> *See id.*

<sup>41</sup> *ENT Report* at 13-14.

<sup>42</sup> *See* discussion *supra*, Parts I-II.

<sup>43</sup> *See Ex Parte of the National Court Reporters Association, et al.*, CG Docket No. 05-231, at 1-2 (Sept. 10, 2015), <http://apps.fcc.gov/ecfs/comment/view?id=60001299136>.

ENT to high-quality real-time captions.<sup>44</sup> In support, NAB provides a litany of general statistics about station finances.<sup>45</sup>

Nowhere in its statistics, however, does NAB attempt to answer the basic and essential question of how much news programming, if any, would specifically be placed at risk or at which stations if the ENT prohibition were extended to markets outside the top 25. Instead, NAB vaguely notes that some unspecified number of stations with unspecified “limited” budgets in unspecified “small and medium markets simply cannot” provide real-time captioning and that requiring them to do so would “jeopardize the provision of local news programming” to some unspecified extent.<sup>46</sup>

Moreover, NAB concedes both that the blanket allowance of ENT outside the top 25 markets is not necessary for all stations. In particular, NAB notes that “a number of stations utilize live captioning in ENT-permissible markets.”<sup>47</sup> NAB concedes that it does not even know which stations no longer rely on ENT, noting that it “does not have sufficient data to provide an exact number.”<sup>48</sup> Moreover, the *Broadcaster Survey* notes that 57.5% of broadcaster survey takers—more than half—have already begun to consider switching away from ENT to real-time captioning.<sup>49</sup>

Section 713(d)(1) of the Communications Act only permits the Commission to extend categorical exemptions from its captioning rules—including the allowance of ENT—on the basis of an undue economic burden.<sup>50</sup> Whatever basis might have supported the Commission’s original allowance of ENT outside the top 25 markets can no longer be

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<sup>44</sup> *ENT Report* at 10.

<sup>45</sup> *Id.* at 10-13.

<sup>46</sup> *Id.* at 12-13.

<sup>47</sup> *Id.* at 17-18

<sup>48</sup> *Id.*

<sup>49</sup> *Broadcaster Survey* at 9.

<sup>50</sup> *See* 47 U.S.C. § 613(d)(1).

sustained given that stations in those markets are voluntarily migrating away from ENT and toward real-time captioning. Moreover, a blanket allowance remains inappropriate given that NAB does not identify even a single specific station to which a real-time captioning requirement would impose an undue economic burden.

**C. Any scarcity or expense of real-time captioners is driven in part by the continued allowance of ENT.**

NAB nevertheless notes that “[t]he cost of real-time captioning remains high.”<sup>51</sup> NAB also cites to “persistent shortages of qualified captioners” as a basis for continuing to allow ENT usage.<sup>52</sup>

Again, we do not believe that the cost of captioners can form the basis for continuing the Commission’s allowance of ENT absent the necessary context of specific stations that are unable to sustain that cost.<sup>53</sup> Nor is it clear that captioner scarcity is a meaningful deterrent to adopting real-time captions; indeed, the vast majority of broadcaster survey takers—78.6%—did not cite access to quality captioners as a primary reason for continuing to use ENT.<sup>54</sup>

Even if scarcity or cost were meaningful barriers to migrating away from ENT, NAB ignores the role of continuing to allow ENT in perpetuating cost and scarcity issues. When the vast number of stations need not use real-time captioners, there is no reason to expect that the market for qualified real-time captioners will be sufficiently large or inexpensive to serve all those stations. Nor will be it possible for the market to evolve to meet that demand unless the Commission phases in real-time captioning requirements for stations outside the top 25 markets that currently rely on ENT.

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<sup>51</sup> *ENT Report* at 8-9.

<sup>52</sup> *Id.* at 9-10.

<sup>53</sup> See discussion *supra*, Part III(B).

<sup>54</sup> See *Broadcaster Survey* at 7.

**D. The Commission should proceed with its plans to phase out ENT.**

Because the ENT Report lacks evidence to demonstrate that ENT has improved sufficiently to justify its continued usage, we again urge the Commission to proceed with its plans to phase in over a reasonable period of time real-time captioning for stations outside the top 25 markets. We are amenable to a multi-year transition period similar to the approach the Commission took to the initial phase-in of its captioning rules.<sup>55</sup> However, we urge the Commission to require broadcasters and others continuing to rely on ENT over the transition period to file regular reports detailing the state of their efforts to both transition from ENT to real-time captions and improve the quality of all captions they use to meet the Commission's accuracy, synchronicity, completeness, and placement standards.<sup>56</sup>

**IV. Educational efforts and continuing dialogue may prove beneficial in the transition from ENT to real-time captions.**

Notwithstanding our disagreement with NAB on the future of ENT, we agree with NAB that certain educational approaches may prove fruitful in the short-term. First, we agree that in the transition from ENT to real-time captions, educating stations that continue to use ENT in the short-term on how to format scripts to improve the readability of captions ultimately created with those scripts may improve the experience to a limited extent for some viewers.<sup>57</sup> Second, we agree that consumer education and outreach regarding technological features that allow users to customize their viewing experience would be a fruitful effort and stand ready to work with NAB on that score.<sup>58</sup> Third, we agree that ongoing dialogue between broadcasters and stations is critical and remain committed to

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<sup>55</sup> See *generally* 47 C.F.R. § 79.1(b).

<sup>56</sup> See 47 C.F.R. § 79.1(j)(2).

<sup>57</sup> See *ENT Report* at 22-23.

<sup>58</sup> See *id.* at 23-24. We note, however, that such efforts may be hindered without further efforts to ensure the accessibility of caption control features.



working with NAB to ensure that broadcasters understand the perspective of viewers who are deaf or hard of hearing and vice versa.

**V. Consumer complaints to the Commission understate the scope of captioning problems and are hindered by various roadblocks.**

Finally, although it is tangential to the primary focus of this reply, the *Consumer Survey Report* revealed a striking statistic on consumer complaints about captioning problems. Specifically, only 16.56% of consumer survey takers who encountered a problem with news captioning filed a complaint with the Commission, compared with 83.4% who did not.<sup>59</sup> Survey takers revealed deep skepticism about the efficacy of filing complaints in their written responses.<sup>60</sup> We urge the Commission to carefully review the responses in reconsidering how to calibrate its complaint processes. We also urge the Commission to reconsider its reliance on consumer complaints as a basis for policy and enforcement actions, given that they may understate the instance of news captioning problems—and likely others.

Respectfully submitted,

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<sup>59</sup> *Survey Report* at 5.

<sup>60</sup> *Id.* at 31-33.

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